Tan Sri Razarudin bin Husain @ Abd Rasid v Wan Muhammad Azri bin Wan Deris

HIGH COURT (KUALA LUMPUR) — CIVIL SUIT NO WA-22NCVC-791–12 OF 2024
GAN TECHIONG JC
27 AUGUST 2025

Civil Procedure — Contempt of court — Penalty — Whether contemnor's actions were willful and contumacious — Whether charges of contempt of court were proven beyond reasonable doubt — Whether custodial sentence was appropriate in circumstances of case

The plaintiff, a former Inspector-General of Police of Malaysia, had filed the instant defamation action against the defendant — a text and video blogger on several social media platforms — for allegedly defaming him on the said websites. Despite the plaintiff serving on the defendant an interim injunction he had obtained from court to restrain the defendant from further defaming him, the defendant continued to do so resulting in the plaintiff applying for a committal order against the defendant to punish him for the contempt. On the day of hearing of the committal application, the defendant decided to unconditionally apologise to the court and the plaintiff for his breach. He also undertook to take down all defamatory remarks he had made about the plaintiff from the websites concerned and also promised to upload onto those sites the apology he had made in court. The defendant's apology and undertakings were embodied into a court order ('the 30 April order') and the defendant was discharged without punishment save for an order that he pay the plaintiff RM5,000 in costs. The following day, the defendant live-streamed a video ('the 1 May video) of himself on his social media accounts commenting on what took place in court on 30 April and effectively undermined the very apology he had made. Amongst other things, the apology that was posted on some of the defendant's websites was practically unreadable because it was scrolled on the screen at an unduly fast speed and was accompanied by background music taken from a song in a comedy movie. The defendant also boasted in the video that his decision to apologise had saved him from being jailed for contempt. He also declared that he had never apologised to anyone who had sued him in the past and that included the plaintiff. In response to the 1 May video, the plaintiff filed two instant applications to cite the defendant for committing contempt of court — the first application was in respect of the defendant's failure to comply with the undertakings he had made in the 30 April order; the second application aimed to chastise the defendant for making a mockery of his apology and scandalising the court and the judicial process. In his defence, the defendant argued that the 1 May video was not

intended to defy the 30 April order but to explain the terms of the order to his followers. The defendant also claimed that he could not publish his apology on all his social media websites (as he undertook to do in the 30 April order) because some of them were 'blocked' by the Malaysian Communications and Multimedia Commission ('MCMC') — an asseertion the defendant failed to prove.

Held, sentencing the defendant to 30 days' in jail and ordering him to pay RM15,000 in costs to the plaintiff; granting a conditional stay of execution of sentence pending the defendant's appeal against the decision to the Court of Appeal:

(1) The charges of contempt of court against the defendant were proven beyond reasonable doubt (see paras 57 & 82).

(2) The defendant could have easily performed his undertakings under the 30 April order but he chose to be recalcitrant. The words of his apology were scrolled on his websites at a high speed so that before the first line of a paragraph could be read, the whole paragraph was replaced by another. The court took judicial notice that content creators could set the speed of videos before they were posted online. The defendant had set his apology to scroll at an unreadable speed (see paras 47–48).

(3) Further, even though the defendant knew that his apology was to be a solemn expression of remorse with a contrite heart, he added background music in the form of a song from a comedy movie, Pendekar Bujang Lapok. The court was constrained to find that the choice of song was intended to ridicule the plaintiff. This was a fair inference to make as the defendant had earlier portrayed the plaintiff as a comedian by posting an edited photograph of him on the defendant's Telegram on 15 January 2025. There was absolutely no necessity to use the song from the comedy movie as background music whilst the text of the apology scrolled at an unreadable speed. Based on all the facts, the defendant had attempted to diminish and/or negate his apology by turning it into a mockery. The defendant had failed to comply with the undertakings he had made in the 30 April order. He had also failed to adduce cogent evidence to show that his accounts on Telegram: Sir Azri and Tiktok: Azri Brotherhood were 'blocked' by the MCMC on 30th April 2025, as he had claimed (see paras 49–54).

(4) By not fully complying with the 30 April order, the defendant had failed to purge himself of the contempt he had committed on 14 and 15 January 2025 in not complying with the injunction order. The facts showed that instead of affirming his apology, the defendant had aggravated his acts of contempt (see para 56).

(5) In his 1 May video, the defendant had used words and a tone that made it abundantly clear that his decision to apologise was not out of remorse but a tactical manoeuvre after discussion with his counsel. By announcing in the video that he had 'won in court', the defendant was telling his followers that he had successfully deceived the court into accepting his insincere apology and not punishing him for his contempt. He boasted in the video that he had never apologised to whoever had sued him in the past, including the plaintiff. The defendant's choice of words in his 1 May video showed arrogance and a total lack of remorse (see paras 66–70).

(6) The defendant had used his apology in court on 30 April 2025 to create content for his 1 May video. It was common knowledge that social media platforms paid those who posted contents that attracted a high number of viewers. There was monetary gain to be made from posting sensational statements by using the names of high-profile individuals. Although there was no direct evidence to show that the defendant was paid for his posts on social media, It was reasonable to infer from all the facts that the defendant was remunerated for blogging and criticising the government. He was a blogger cum vlogger cum live-streamer who made the act of criticising the government his fulltime occupation to earn money. Although freedom of speech was a constitutional right, it was not a licence to slander and to profit from slandering or to twist apologies tendered in court to create content for sensational online videos (see paras 71, 79, 81 and 86).

(7) The defendant had deceived the court and the plaintiff into believing that he had apologised sincerely and that he would comply with the terms of the 30 April order. Instead, he repudiated the apology and made a mockery of it and attempted to negate the news of his apologising in court (which was published by the newspapers on 1 May 2025) by creating and uploading the 1 May video. There was no expression of remorse from the defendant but rather an aggravation of his acts of contempt (see paras 87–88).

[Bahasa Malaysia summary

Plaintif, seorang bekas Ketua Polis Negara Malaysia, telah memfailkan tindakan fitnah semasa ini terhadap defendan — seorang penulis blog teks dan video di beberapa platform media sosial — kerana didakwa telah memfitnah beliau di laman-laman web tersebut. Walaupun plaintif telah menyampaikan kepada defendan suatu injunksi interim yang diperolehnya daripada Mahkamah bagi menghalang defendan daripada terus memfitnahnya, defendan tetap meneruskan perbuatan tersebut yang menyebabkan plaintif memohon suatu perintah pengkomitan terhadap defendan untuk menghukumnya atas penghinaan mahkamah. Pada hari pendengaran permohonan pengkomitan tersebut, defendan telah memutuskan untuk

memohon maaf tanpa syarat kepada mahkamah dan plaintif atas pelanggarannya. Beliau juga telah memberikan suatu akujanji untuk menurunkan semua kenyataan berunsur fitnah yang telah dibuatnya terhadap plaintif daripada laman-laman web berkenaan serta berjanji untuk memuat naik di laman-laman tersebut permohonan maaf yang telah dibuatnya di mahkamah. Permohonan maaf dan akujanji defendan tersebut telah dimasukkan ke dalam suatu perintah mahkamah ('perintah 30 April') dan defendan telah dilepaskan tanpa hukuman selain suatu perintah supaya beliau membayar kos sebanyak RM5,000 kepada plaintif. Pada keesokan harinya, defendan telah menyiarkan secara siaran langsung suatu video ('video 1 Mei') dirinya di akaun media sosialnya yang mengulas mengenai apa yang telah berlaku di mahkamah pada 30 April dan secara berkesan telah menjejaskan permohonan maaf yang telah dibuatnya itu. Antara lain, permohonan maaf yang dimuat naik di beberapa laman web defendan adalah hampir tidak dapat dibaca kerana ia digerakkan pada kelajuan yang terlalu pantas dan disertai dengan muzik latar yang diambil daripada sebuah lagu dalam filem komedi. Defendan juga dengan megah dalam video tersebut bahawa keputusannya untuk memohon maaf telah menyelamatkannya daripada dipenjarakan atas penghinaan mahkamah. Beliau turut mengisytiharkan bahawa beliau tidak pernah memohon maaf kepada sesiapa yang telah menyamannya pada masa lalu dan perkara tersebut termasuklah plaintif. Sebagai tindak balas terhadap video 1 Mei tersebut, plaintif telah memfailkan dua permohonan semasa bagi merujuk defendan atas kesalahan menghina mahkamah — permohonan pertama adalah berhubung kegagalan defendan untuk mematuhi akujanji-aku janji yang telah dibuatnya dalam perintah 30 April; permohonan kedua bertujuan untuk menghukum defendan kerana memperolok-olokkan permohonan maafnya serta mencemarkan mahkamah dan proses kehakiman. Dalam pembelaannya, defendan berhujah bahawa video 1 Mei tersebut tidak bertujuan untuk mengingkari perintah 30 April tetapi untuk menjelaskan terma-terma perintah tersebut kepada para pengikutnya. Defendan juga mendakwa bahawa beliau tidak dapat menerbitkan permohonan maafnya di semua laman web media sosialnya (sebagaimana yang telah diaku janji dalam perintah 30 April) kerana sebahagiannya telah 'disekat' oleh Suruhanjaya Komunikasi dan Multimedia Malaysia ('SKMM') — suatu dakwaan yang gagal dibuktikan oleh defendan.

Diputuskan, menjatuhkan hukuman penjara selama 30 hari ke atas defendan dan memerintahkan beliau membayar kos sebanyak RM15,000 kepada plaintif; membenarkan penggantungan bersyarat pelaksanaan hukuman sementara menunggu rayuan defendan terhadap keputusan tersebut ke Mahkamah Rayuan:

(1) Pertuduhan penghinaan mahkamah terhadap defendan telah dibuktikan melampaui keraguan munasabah (lihat perenggan 57 & 82).

(2) Defendan sebenarnya boleh dengan mudah melaksanakan akujanji-aku

janji di bawah perintah 30 April tetapi beliau memilih untuk bersikap ingkar. Perkataan dalam permohonan maafnya telah digerakkan di laman-lamannya pada kelajuan yang tinggi sehingga sebelum baris pertama sesuatu perenggan dapat dibaca, keseluruhan perenggan tersebut telah digantikan dengan perenggan yang lain. Mahkamah mengambil notis kehakiman bahawa pencipta kandungan boleh menetapkan kelajuan video sebelum ia dimuat naik secara dalam talian. Defendan telah menetapkan permohonan maafnya untuk digerakkan pada kelajuan yang tidak dapat dibaca (lihat perenggan 47–48).

(3) Selanjutnya, walaupun defendan mengetahui bahawa permohonan maafnya sepatutnya merupakan suatu pernyataan penyesalan yang serius dengan hati yang insaf, beliau telah menambah muzik latar dalam bentuk sebuah lagu daripada filem komedi Pendekar Bujang Lapok. Mahkamah terpaksa membuat dapatan bahawa pemilihan lagu tersebut adalah bertujuan untuk memperlekehkan plaintif. Inferens ini adalah wajar memandangkan defendan sebelum ini telah menggambarkan plaintif sebagai seorang pelawak dengan memuat naik gambar suntingan plaintif di Telegram defendan pada 15 Januari 2025. Tidak terdapat sebarang keperluan mutlak untuk menggunakan lagu daripada filem komedi tersebut sebagai muzik latar ketika teks permohonan maaf digerakkan pada kelajuan yang tidak dapat dibaca. Berdasarkan keseluruhan fakta, defendan telah cuba mengurangkan dan/atau menafikan permohonan maafnya dengan menjadikannya bahan ejekan. Defendan telah gagal mematuhi akujanji-aku janji yang dibuatnya dalam perintah 30 April. Beliau juga telah gagal mengemukakan bukti yang kukuh untuk menunjukkan bahawa akaunnya di Telegram: Sir Azri dan TikTok: Azri Brotherhood telah 'disekat' oleh SKMM pada 30 April 2025, sebagaimana yang didakwanya (lihat perenggan 49–54).

(4) Dengan tidak mematuhi sepenuhnya perintah 30 April, defendan telah gagal membersihkan dirinya daripada penghinaan mahkamah yang telah dilakukannya pada 14 dan 15 Januari 2025 kerana tidak mematuhi perintah injunksi. Fakta menunjukkan bahawa, bukannya mengesahkan permohonan maafnya, defendan telah memburukkan lagi perbuatan-perbuatan penghinaan mahkamahnya (lihat perenggan 56).

(5) Dalam video 1 Mei, defendan telah menggunakan perkataan dan nada yang menjelaskan tanpa keraguan bahawa keputusannya untuk memohon maaf bukanlah atas dasar penyesalan tetapi merupakan suatu manuver taktikal selepas perbincangan dengan peguamnya. Dengan mengumumkan dalam video tersebut bahawa beliau telah 'menang di mahkamah', defendan telah memberitahu para pengikutnya bahawa beliau telah berjaya memperdaya mahkamah supaya menerima permohonan maafnya yang tidak ikhlas dan tidak menghukumnya atas penghinaan mahkamah. Beliau bermegah dalam video tersebut bahawa

beliau tidak pernah memohon maaf kepada sesiapa yang telah menyamannya sebelum ini, termasuk plaintif. Pemilihan perkataan defendan dalam video 1 Mei menunjukkan sikap angkuh dan ketiadaan sepenuhnya rasa penyesalan (lihat perenggan 66–70).

(6) Defendan telah menggunakan permohonan maafnya di mahkamah pada 30 April 2025 untuk mencipta kandungan bagi video 1 Mei. Ia adalah pengetahuan umum bahawa platform media sosial membayar mereka yang memuat naik kandungan yang menarik bilangan penonton yang tinggi. Terdapat keuntungan kewangan yang boleh diperoleh daripada memuat naik kenyataan sensasi dengan menggunakan nama individu berprofil tinggi. Walaupun tiada bukti langsung untuk menunjukkan bahawa defendan telah dibayar bagi hantaran media sosialnya, adalah munasabah untuk membuat inferens daripada keseluruhan fakta bahawa defendan menerima imbuhan bagi aktiviti penulisan blog dan kritikan terhadap kerajaan. Beliau merupakan seorang penulis blog, vlogger dan penyiar langsung yang menjadikan perbuatan mengkritik kerajaan sebagai pekerjaan sepenuh masa untuk memperoleh pendapatan. Walaupun kebebasan bersuara merupakan suatu hak perlembagaan, ia bukanlah suatu lesen untuk memfitnah dan meraih keuntungan daripada perbuatan memfitnah atau untuk memutarbelitkan permohonan maaf yang dikemukakan di mahkamah bagi menghasilkan kandungan video dalam talian yang sensasi (lihat perenggan 71, 79, 81 & 86).

(7) Defendan telah memperdaya mahkamah dan plaintif supaya mempercayai bahawa beliau telah memohon maaf dengan ikhlas dan bahawa beliau akan mematuhi terma-terma perintah 30 April. Sebaliknya, beliau telah menolak permohonan maaf tersebut, memperolok-olokkannya dan cuba menafikan berita mengenai permohonan maafnya di mahkamah (yang telah diterbitkan oleh akhbar-akhbar pada 1 Mei 2025) dengan mencipta dan memuat naik video 1 Mei. Tidak terdapat sebarang ungkapan penyesalan daripada defendan, sebaliknya terdapat pemburukan terhadap perbuatan-perbuatan penghinaan mahkamahnya (lihat perenggan 87–88).]

Cases referred to

Asia Pacific Parcel Tankers Pte Ltd v The Owners of the Ship or Vessel 'Normar Splendour' [1999] 6 MLJ 652, HC (refd)

Attorney General v Times Newspaper Ltd [1974] AC 273, HL (refd)

Bumitech Marketing Sdn Bhd v Suasa Efektif (M) Sdn Bhd [2012] MLJU 1208, HC (refd)

Bursa Malaysia Securities Bhd v Tengku Dato' Kamal Ibni Sultan Sir Abu Bakar & Ors [2017] 7 MLJ 141,HC (refd)

Fortune Pacific Engineering Co Ltd v Gajatakraw Industries Sdn Bhd [2009] MLJU 1975; [2010] 5 CLJ 590, HC (refd)

Hoslan bin Hussin v Majlis Agama Islam Wilayah Persekutuan [2012] 4 MLJ 137, FC (refd)
HSBC Bank Malaysia Bhd (formerly known as Hongkong Bank (M) Bhd) v Tirathrai Sdn Bhd (formerly known as T Jethanand Sdn Bhd) [2009] 7 MLJ 168, HC (refd)
IJM Corporation Bhd v Harta Kumpulan Sdn Bhd (Part 2) [2007] MLJU 822; [2008] 8 CLJ 308, HC (refd)
Jasa Keramat Sdn Bhd & Anor v Monatech (M) Sdn Bhd [1999] 4 MLJ 637[1999] 1 MLRA 479, CA (refd)
Ng Hee Thong & Anor v Public Bank Bhd [2000] 2 MLJ 29, CA (refd)
PCP Construction Sdn Bhd v Leap Modulation Sdn Bhd (Asian International Arbitration Centre, intervener) [2019] 4 MLJ 747, FC (refd)
Peguam Negara Malaysia v Mkini Dotcom Sdn Bhd & Anor [2021] 2 MLJ 652; [2021] 3 CLJ 603, FC (refd)
Tan Sri Dato' (Dr) Rozali Ismail & Ors v Lim Pang Cheong @ George Lim & Ors [2012] 3 MLJ 458; [2012] 2 CLJ 849, FC (refd)
Tommy Thomas v Peguam Negara, Malaysia and other appeals [2001] MLJU 767, CA (refd)

Legislation referred to

Courts of Judicature Act 1964 s 13
Federal Constitution arts 10(1)(a), 126
Rules of Court 2012 O 52 r 3(2)

Raam Kumar (with Norleena bt Jamal) (KB Tan, Kumar & Partners) for the plaintiff.
Muhammad Rafique bin Rashid Ali (with Muhammad Amirul Ar Rasyid bin Azman and Nurmustanir bin Md Nor) (The Law Practice of Rafique) for the defendant.

Gan Techiong JC:

INTRODUCTION

[1] The plaintiff was, at the time of commencement of this civil suit, the Inspector-General of Police ('IGP') of Malaysia.

[2] The defendant is a man who refers himself as 'Sir Azri' and/or 'Papagomo'. During the hearing in court, his learned counsel mentioned that the defendant's occupation is a blogger and 'pengkritik kerajaan' (in English: a government critic).

[3] I take judicial notice that a 'blog' is an abbreviation of 'web log' and refers to a regularly updated website or web page, typically by an individual, that is written in an informal or conversational style. A 'blogger' is a person who owns

A and regularly writes material for his blogs. These digital age nomenclatures are mostly from Google's English dictionary provided by Oxford Languages on current English. It is also noted that 'vblog' or 'vlog' is a video blog that uses audio video combined with text and images to create content. Apparently, a person who creates 'vlog' and 'vblog' is called a 'vlogger' and lastly, a function of
B 'live streaming' refers to a live audio video recording being posted online.

[4] Since the generally accepted definition of 'cybertrooper' is 'an individual who tries to influence public opinion on social media platforms, often for political or commercial purposes', it would be apt to describe the defendant as
C a cybertrooper. I make this observation because he is, by his own admission, a blogger cum vlogger cum live streamer who makes the act of criticising the government his fulltime occupation.

D **[5]** The documentary evidence in the plaintiff's affidavits show that the defendant maintains accounts on several social media platforms, including YouTube, Tiktok, X and Telegram.

[6] The plaintiff has filed contempt proceedings against the defendant. His
E first application to cite the defendant for contempt of court was for breaching an injunction on 14 and 15 January 2025. Leave was granted on 10 February 2025 for the plaintiff to proceed. On 30 April 2025, which was the hearing date of the substantive application for a committal order, the defendant decided voluntarily to apologise to the plaintiff and to the court. He read out
F an unqualified apology in this court and undertook to post his apology on his same social media platforms accounts on which he had on 14 and 15 January 2025 posted his defamatory statements — so that his apology could be heard or read by the same audience. The defendant further undertook to remove his defamatory posts. Pursuant to his apology and undertaking, this court had
G issued an order ('the 30 April order') to give effect thereto. No fine was imposed and he was ordered to pay costs of only RM5,000.

[7] As it transpired, the defendant failed to fully comply with the 30 April order and on 1 May 2025, he created a 'live stream' video of himself posted on
H his blogs, in YouTube and Tiktok respectively. It was a video of himself uttering statements about the proceedings in court the day before, wherein he also voiced his true sentiments about the apology, stating, inter alia, that he had won in court. The plaintiff responded with two applications for leave to cite the defendant for contempt of court.

I

[8] Leave was granted to the plaintiff in both his applications. The defendant was given ample opportunity to file his affidavits to defend himself. After reading the affidavits, the statements pursuant to O 52 r 3(2) of the Rules of Court 2012, submissions filed by both sides and hearing their learned counsel

respectively, I found beyond reasonable doubt that the defendant has indeed acted in contempt of court. The details of the facts, my reasoning and law behind my finding and the sentences imposed, shall be explained below.

BACKGROUND FACTS

[9] In December 2024, the plaintiff was troubled to find that the defendant had been making lewd statements of a defamatory nature against him in several videos that were created by way of 'live streaming' and/or posted on the defendant's vblogs. Those statements were sufficiently serious to move the plaintiff to file this civil suit, inter alia, to seek an injunction against the defendant.

[10] An injunction was first issued ex parte by this court on 31 December 2024, and when the plaintiff's application was called for inter parte hearing on 10 January 2025, it was allowed, for an injunction to be issued against the defendant. The main part of the injunction may be summed as an injunction to restrain the defendant from publishing and/or broadcasting (*menerbitkan dan/atau menyiarkan*) statements of a defamatory nature in the form of video or other forms, which refers to the plaintiff personally or to his position as the Inspector-General of Police, whether in writing or orally, on any social media platform or messaging platforms, until disposal of this civil suit ('the injunction'). The injunction is ordered to be in force until further order or the disposal of this civil suit

[11] It was undisputed that a sealed copy of the injunction was first served on the defendant personally by hand on 3 January 2025. A sealed order containing the injunction issued after inter parte hearing on 10 January 2025 was also served on him. However, despite having been served with the injunction, the defendant posted a 'live streaming' video of himself on several social media platforms and made defamatory statements against the plaintiff. That was on 14 January 2025. A day later, on 15 January 2025 he posted a photograph of the plaintiff that had been edited to ridicule the plaintiff. Unsurprisingly, the plaintiff reacted by commencing contempt proceedings for leave to apply for a committal order against the defendant. Leave was granted and both parties filed their respective affidavits.

[12] On the hearing date of the plaintiff's substantive application for a committal order on 30 April 2025, the defendant could have instructed his learned counsel to proceed with the hearing to resist. Instead, the defendant decided to apologise to the court and to the plaintiff.

[13] The terms of the defendant's unqualified apology were then written out and agreed by learned counsel for the plaintiff after some negotiation between

A them without any intervention by this court. The terms of the defendant's apology ('his/the apology'), as agreed by him, states as follows:

> Saya, Wan Muhammad Azri Bin Wan Deris (No K/P: 830121–03–5019) dengan suci hati tanpa apa-apa syarat memohon maaf kepada Mahkamah Yang Mulia ini dan kepada Inspector General of Police Tan Sri Razarudin bin Husin @ Abd Rasid selaku Ketua Polis Negara (Plaintif) di atas penggunaan-penggunaan perkataan berunsur fitnah dan kesat terhadap Plaintif pada terbitan bertarikh 14 Januari 2025 dan penggunaan gambar Ketua Polis Negara yang disunting pada 15 Januari 2025.
>
> Saya beraku janji tidak akan mengulangi sebarang kenyataan-kenyataan fitnah dan kesat terhadap Ketua Polis Negara serta akan memadamkan kenyataan-kenyataan bertarikh 14 Januari 2025 dan 15 Januari 2025 tersebut.

[14] The defendant conferred with his learned counsel in private and could definitely understand that he was agreeing to post his apology on his same accounts with the same social media platforms on which he had on 14 and 15 January 2025 posted his defamatory statements and the edited photograph of the plaintiff — so that his apology could reach the same audience — and be read and/or heard by them.

[15] On the same day, ie on 30 April 2025, the defendant read out his apology in court and expressly undertook to post it in his same accounts with the same social media platforms on which he had on 14 and 15 January 2025 posted his defamatory statements. The defendant further undertook to remove his defamatory posts. Pursuant to his apology and said undertaking, this court had issued an order ('the 30 April order') to give effect to his undertaking. No fine was imposed and he was ordered to pay costs of only RM5,000 to the plaintiff.

[16] The issue of the defendant's failure to comply with the 30 April order shall be discussed below. The further event of relevance occurred on 1 May 2025 when the defendant did a 'live streaming' video of himself uttering statements about the proceedings in court the day before (30 April 2025) and also voicing his sentiments about his apology, stating, inter alia, that he had won in court as he managed to avoid imprisonment for contempt of court. This was posted on his accounts with YouTube and Tiktok respectively. The plaintiff responded with two applications for leave to cite the defendant for contempt of court.

[17] Leave was granted to the plaintiff in his applications, on 9 and 16 May 2025 respectively. Even though those applications for leave were ex parte applications, the defendant had learnt of them. This was evident from the defendant's counsel attending court on 9 May 2025 for the hearing of the ex parte leave application and objecting to leave being granted.

[18] The plaintiff's applications for inter parte substantive hearing are in encl 88 and encl 100 respectively. The defendant was given ample opportunity to file his affidavits to defend himself. The defendant had in fact filed his affidavit late to resist encl 88. As he was facing committal proceedings, this court granted him leave on 1 July 2025 for his affidavit (encl 111) — which was filed late — to be accepted in evidence. Both applications filed by the plaintiff were then fixed for hearing on 24 July 2025 to give both sides sufficient time to prepare thoroughly.

[19] On 24 July 2025, learned counsel for the defendant submitted that the defendant could not upload his apology on all his same accounts with the social media platforms due to them being 'blocked'. Once again, as the defendant was facing committal proceedings, this court gave him yet another opportunity to file a further affidavit to specifically give details of those social media accounts with TikTok and X that he was alleging to have been blocked on 30 April 2025. The plaintiff's applications were then fixed for continued hearing on 27 August 2025.

[20] On 26 August 2025, the defendant filed a further affidavit (encl 120) wherein he stated that his solicitors had written to the Malaysian Communications and Multimedia Commission ('MCMC') to ask which of his social media accounts had been blocked but had received no confirmation.

THE PLAINTIFF'S POSITION

[21] The plaintiff contends that the defendant has failed to genuinely purge his contempt on 30 April 2025 and had instead aggravated his contempt by making a mockery of the apology and of the court.

[22] It was further submitted for the plaintiff that on 30 April 2025, the defendant had failed to fulfil his undertaking recorded in the 30 April order. Firstly, learned counsel for the plaintiff submits that the defendant did not publish his apology in 'still form' (ie as text that could be read) and nor did he read out his apology on his social media platforms (TikTok, YouTube, X and Telegram).

[23] The plaintiff's learned counsel contends that the defendant's presentation of his apology was unreadable; 'could hardly be read by any reasonable reader' due to the way the defendant had presented it.

[24] Secondly, it was submitted that the background music was intended to mock this court and the plaintiff – as the defendant had added background music from P Ramlee's comedy movie 'Pendekar Bujang Lapok'. Learned counsel argues that the choice of background music from a comedy was not a

coincidence, that it was 'purposely added to co-relate the plaintiff as a comedian in a P Ramlee movie', with the intention of supporting the defendant's earlier act of contempt when he had compared the plaintiff — who was then the Inspector-General of Police — with a comedian.

[25] Thirdly, the plaintiff's learned counsel submits that the defendant's apology was not uploaded on the same social media platforms as ordered by this court, that there was no evidence of the defendant's social media accounts/blogs being blocked by MCMC and also no evidence of deletion of the defendant's posts that were uploaded by him on 14 and 15 January 2025.

[26] As for the 'live streaming' video of the defendant which he uploaded on 1 May 2025 on TikTok (Papa Azri) and YouTube (Sir Azri), learned counsel for the Plaintiff highlighted that the defendant said words with the following meaning:

(a) that he had only apologised to the court and not to the plaintiff — even though the contents of the apology which the defendant agreed to publish stated that he was also apologising to the plaintiff;

(b) that his apology was only for contempt of court — not for having defamed the plaintiff;

(c) that his fight was with the court, not with the IGP — denying having apologised to the plaintiff personally even though he did admit (in his video on 1 May 2025) that he used 'uncalled for words' on 14 January 2025;

(d) that it was a strategic move for him to agree to apologise — suggesting calculated behaviour with no remorse;

(e) that he was aware that the consequences of contempt of court include imprisonment and fines; and

(f) that he did not concede defeat but had in fact won in court because 'they' failed to 'throw him into Sungai Buloh prison'.

[27] The plaintiff's learned counsel argues that the undisputed facts have proven that the defendant breached the terms of the 30 April order by failing to adhere to the conditions of his apology as his statement on 1 May 2025 proves that his apology was contrary to the contents thereof, in not being unconditional.

[28] It was further submitted that the defendant had intended to deceive this court on 30 April 2025 by agreeing to apologise when in fact he felt no remorse about having breached the injunction, that his 'unconditional apology' was nothing but a gimmick to escape punishment. It was strongly contended that

the defendant is in contempt as he continued to try to make a fool of the plaintiff even after apologising despite the injunction being still in force.

[29] Learned counsel also submits that the defendant was bragging that he could make a mockery of the judiciary and had obviously failed to purge his acts of contempt committed on 14 and 15 January 2025.

[30] Learned counsel for the plaintiff referred to the statements filed pursuant to O 52 r 3(2) of the Rules of Court 2012 on 5 May 2025 (encl 74) and 15 May 2025 (encl 97) respectively and submits that the plaintiff has proven the acts of contempt stated in the said statements.

[31] Lastly, learned counsel for the plaintiff submits that severe punishment ought to be imposed. He proposed imprisonment of two years, a fine of RM750,000 and costs of RM70,000 as there are obviously two acts of contempt, on 30 April and 1 May 2025, that the defendant had undermined public respect towards the court and the administration of justice and that there are no mitigating factors. Learned counsel for the plaintiff makes a critical plea that: 'The Plaintiff cannot go on filing contempt proceedings one after another.' and pray for the court to put an end to the defendant's 'continuous contemptuous behaviour'.

THE DEFENDANT'S POSITION

[32] Learned counsel for the defendant contends that the defendant had fully complied with the 30 April order as he had read out his apology in court on 30 April 2025 and had allegedly published his apology on the following social media platforms, namely, TikTok, YouTube, X and Telegram 30 April 2025 and kept them online for more than the required seven days. He also submitted that the defendant had deleted the original defamatory posts which he posted on 14 and 15 January 2025. Lastly, he submitted that the defendant paid costs of RM5,000 on 21 May 2025.

[33] Learned counsel for the defendant emphasises that the reading of the apology was witnessed by the plaintiff's counsel and widely reported in several news outlets, citing *Buletin Utama TV3*, *Free Malaysia Today*, *Malay Mail*, *Malaysiakini*, *The Edge* and *The Sun Daily*.

[34] As for the video posted by the defendant on 1 May 2025, the defendant argues it was a clarification and not an act of defiance. His learned counsel submits that being a layperson without legal training, the defendant was making a clarification in good faith to address public confusion without expressly revoking his apology.

[35] It was further submitted for the defendant that the defendant was at liberty to use a P Ramlee's song as the background music to post his apology online as the court did not prescribe any particular tone, format or audio-visual specifications, that the defendant's choice of presentation with that background music was purportedly respectful and consistent with Malaysian culture. His learned counsel takes the view that there should be no finding of contempt as 'no express terms were violated'.

[36] The defendant's learned counsel relies on the Federal Court's judgment in *Tan Sri Dato' (Dr) Rozali Ismail & Ors v Lim Pang Cheong @ George Lim & Ors* [2012] 3 MLJ 458; [2012] 2 CLJ 849 as authority in his submitting that the statement filed by the plaintiff pursuant to O 52 r 3(2) of the Rules of Court 2012 failed to 'adequately described and particularise in detail' the allegations of contempt. The said rule reads:

> (2) An application for such leave must be made ex parte to the court by a notice of application supported by a statement setting out the name and description of the applicant, the name, description and address of the person sought to be committed and the grounds on which his committal is sought, and by an affidavit, to be filed before the application is made, verifying the facts relied on.

[37] It was further submitted by learned counsel for the defendant that the plaintiff's applications to cite his client for contempt was an abuse of process. He cited the definition of 'abuse of process' as opined by Gopal Sri Ram JCA (as he then was) in *Jasa Keramat Sdn Bhd & Anor v Monatech (M) Sdn Bhd* [1999] 4 MLJ 637[1999] 1 MLRA 479, which includes 'the use of interlocutory relief as an instrument of oppression' — where relief is used 'not to remedy a genuine grievance, but as an instrument of oppression'.

[38] Lastly, the defendant's learned counsel contends that the defendant complied with 'both the letter and spirit' of the 30 April order, and that contempt must involve wilful, deliberate disobedience — which, according to him, has not been proven.

ANALYSIS OF THE FACTS AND LAW

[39] Since the charges levied against the defendant are for contempt of court, I shall recapitulate the narrated background facts and delve into details to ensure that all relevant facts are considered in making the findings of this court.

[40] First, as mentioned above, in December 2024 the plaintiff was troubled to find that the defendant had been making lewd statements of a defamatory nature against him in several videos that were created by way of 'live streaming' and posted on the defendant's vblogs on social media. A short excerpt

(*transcribed by a retired court interpreter*) is shown below to illustrate the lewdness and defamatory nature of some of the defendant's statements:

> Takkan dia koyak, Sir cakap ... Sir cakap mungkin IGP dah tadah punggung bagi Anwar liwat. Sebab dia jadi penjilat Anwar tegar sangat. Jadi kita pun rasa bengang ah, banyak

[41] Most residents of Malaysia would have no difficulty in comprehending that in his 'live streaming' and/or vblogs, for example, in the excerpt shown in para 40 above, the defendant had exalted himself as 'Sir' while he referred to the then Inspector-General of Police as 'IGP' (the plaintiff herein) and to the Rt Hon Prime Minister of Malaysia as 'Anwar', and that he was alleging that the plaintiff was presenting himself to be sodomised by the Prime Minister! Such an outburst of profanity by the defendant was defamatory and certainly justified the issuance of an interlocutory injunction.

[42] As narrated above, the injunction restraining the defendant from making defamatory statements against the plaintiff was issued ex parte on 31 December 2024, and a sealed order was served by hand on the defendant. The plaintiff's application was called for hearing inter parte on 10 January 2025, and the injunction was ordered to be in force until further order or the disposal of this civil suit. As the defendant did not file any affidavit to resist, he is taken to have admitted the contents of the plaintiff's affidavit in support of the injunction. This trite principle was restated by the Court of Appeal *Ng Hee Thong & Anor v Public Bank Bhd* [2000] 2 MLJ 29 as follows:

> Now, it is a well settled principle governing the evaluation of affidavit evidence that where one party makes a positive assertion upon a material issue, the failure of his opponent to contradict it is usually treated as an admission by him of the fact so asserted: *Alloy Automotive Sdn Bhd v Perusahaan Ironfield Sdn Bhd* [1986] 1 MLJ 382; *Overseas Investment Pte Ltd v Anthony William O'Brien & Anor* [1988] 3 MLJ 332 ...

The application of this principle led to the legal conclusion that the plaintiff was justified in seeking the injunction.

[43] The sequence of relevant events shows that even though the defendant was duly served by hand with a sealed order containing the injunction, he had, on 14 January 2025, performed a 'live streaming' session making various statements, which included defamatory ones against the plaintiff. He posted the video on YouTube (Sir Azri), Tiktok (Azri Brotherhood) and X (Sir Azri). The next day on 15 January 2025, he posted on his social media account with Telegram (Sir Azri) a photograph of the plaintiff that had been edited to ridicule the plaintiff. The said events caused the plaintiff to apply for leave to apply for a committal order. Leave was granted on 10 February 2025.

[44] On the hearing date of the plaintiff's substantive application for a committal order on 30 April 2025, the defendant could have instructed his learned counsel to proceed with the hearing and to resist. *Instead, the defendant decided to apologise to the court and to the plaintiff.*

[45] The defendant was let off for contempt of court on 30 April 2025 after he apologised in court to this court and to the plaintiff, and gave his undertaking — the terms of which are recorded in the 30 April order. No fine was imposed and he was ordered to pay costs of only RM5,000 to the plaintiff. That should have been the end of the contempt proceedings, had he performed according to the 30 April order. Unfortunately, the defendant failed to perform. For accurate reference, the operative part of the 30 April order is set out below:

> Defendan hadir, MAKA ADALAH DIPERINTAHKAN bahawa:
>
> (1) Defendan dikehendaki memohon maaf secara terbuka kepada Plaintif dan Mahkamah di hadapan Mahkamah dari tarikh perintah ini dengan kandungan penyataan yang dipersetujui pihak-pihak seperti berikut:
>
> > 'Saya, Wan Muhammad Azri Bin Wan Deris (No K/P: 830121–03–5019) dengan suci hati tanpa apa-apa syarat memohon maaf kepada Mahkamah Yang Mulia ini dan kepada Inspector General of Police Tan Sri Razarudin bin Husin @ Abd Rasid selaku Ketua Polis Negara (Plaintif) di atas penggunaan-penggunaan perkataan berunsur fitnah dan kesat terhadap Plaintif pada terbitan bertarikh 14 Januari 2025 dan penggunaan gambar Ketua Polis Negara yang disunting pada 15 Januari 2025.
> >
> > Saya beraku janji tidak akan mengulangi sebarang kenyataan-kenyataan fitnah dan kesat terhadap Ketua Polis Negara serta akan memadamkan kenyataan-kenyataan bertarikh 14 Januari 2025 dan 15 Januari 2025 tersebut.'
>
> (2) Defendan dikehendaki untuk menyiarkan permohonan maaf berserta kandungan yang sama seperti di perenggan 1 di atas di kesemua platform sosial media Defendan iaitu TikTok, Youtube, X dan Telegram sebagaimana platform yang disiarkan berkenaan kandungan fitnah dan kesat pada 14 Januari 2025 dan 15 Januari 2025 pada tarikh perintah ini (30 April 2025) dan tidak dipadam sekurang-kurangnya tujuh (7) hari dari perintah ini;

[46] I find it relevant that the defendant had conferred in private with his learned counsel Encik Rafique and therefore could definitely understand that he was agreeing to post his apology on his same accounts with the same social media platforms on which he had on 14 and 15 January 2025 posted his defamatory statements and the edited photograph of the plaintiff — fully understanding that the purpose was to ensure that his apology could reach the same audience and be read and/or heard by them.

[47] Thus, it should have been a straightforward task for the defendant to

comply with his own undertaking as recorded in the 30 April to settle the first committal proceedings amicably. All that he needed to do was to type out those words and post them on his same accounts in the same social media platforms in a manner that is legible and set it at a read-able speed. Alternatively, he could have just performed a 'live streaming' session and read out the text of his apology aloud, to create a video of himself of himself apologising. *The crux of it is that he must post his apology in his same social media accounts with text to be legible and/or his voice to be audible, to remain there for seven days*. Had he done that, there would have been no further committal proceedings.

[48] As the events unfolded, they show that the defendant had decided to be a recalcitrant. He decided to put up the words of his apology scrolling at a high speed on his social media platforms — so fast that there is hardly sufficient time to read the first line before the whole paragraph is replaced by the next paragraph. I take judicial notice that content creators can set the speed of videos before posting them on social media platforms. In other words, the defendant had set his apology to scroll at an unreadable speed on the following accounts on social media platforms:

(a) Youtube: Sir Azri;

(b) Tiktok: Azri_onang;

(c) Telegram: Sir Azri Brotherhood; and

(d) X: Sir Azri.

[49] Further, even though the defendant knew that his apology was to be a solemn expression of remorse with a contrite heart, the defendant added background music in the form of a song from a *comedy movie*, namely, *Pendekar Bujang Lapok* — a movie produced by the famous actor cum comedian P Ramlee. On this point, I am constrained to find that the defendant had chosen a song from a comedy for the purpose of ridiculing the plaintiff — as a mockery instead of apology. This is a fair inference as the defendant had earlier portrayed the plaintiff — who was then the Inspector-General of Police — as a comedian and posted an edited photograph of the plaintiff on Telegram (Sir Azri) on 15 January 2025) to ridicule the plaintiff.

[50] Had the defendant being sincere in apologising, he could have easily read out his apology in his video and display the text of his apology. In other words, there was absolutely no necessity for him to use a song from a comedy movie as the background music while the text of his apology was scrolling at an unreadable speed. As mentioned above, content creators can set the speed of videos before posting them on social media platforms.

[51] Based on the facts as analysed above, it is the judgment of this court that

A the defendant had attempted to diminish and/or negate his apology by scrolling the text of his apology at an unreadable speed and deliberately adding a song from a comedy movie, namely, Pendekar Bujang Lapok, with the intention of ridiculing the plaintiff — whose photo he had edited and posted on his social media account with Telegram (Sir Azri) on 15 January 2025) to B ridicule the plaintiff.

[52] The net result of the defendant's action is that he had failed to comply with the part of the 30 April order which required him to post his apology in his same accounts with the same social media platforms on which he had on C 14 and 15 January 2025 posted his defamatory statements — so that his apology could reach the same audience — and be read and/or heard by them.

[53] *Even if assuming* for a moment that the defendant's acts of posting and setting the text of his apology to scroll at a high speed and the use of a song from D a comedy movie as background music ought to be deemed acceptable performance, I still find that the defendant had failed to perform the 30 April order in failing to post his apology on *all the same social media accounts* as those which he posted on 14 and 15 January 2025 — for which he was apologising E for having breached the injunction. The defendant had posted on Tiktok: Azri_onang instead of on Tiktok: Azri Brotherhood, and on Telegram: Sir Azri Brotherhood instead of on Telegram: Sir Azri.

[54] In his affidavit, the defendant exhibited a screenshot from his Tiktok F account @papa.azri0 showing that he could not access that account. However, he failed to show similar screenshots from those social media accounts on which he posted a video and photograph on 14 and 15 January 2025 respectively. It is noteworthy that there are significant differences in posting on different social media accounts due to the different number of G 'followers' that the defendant had on different accounts. Regardless of whether this was the defendant's true reason for attempting to evade his undertaking to properly publish his apology online, the fact remains that he failed to adduce any cogent evidence to show that his accounts on Telegram: Sir Azri and Tiktok: Azri Brotherhood were purportedly blocked on 30 April 2025.

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[55] I am mindful of the law requiring proof beyond reasonable doubt for a finding of contempt of court to be made. Malik Ishak J (as he then was) in *Asia Pacific Parcel Tankers Pte Ltd v The Owners of the Ship or Vessel 'Normar Splendour'* [1999] 6 MLJ 652 had occasion to rule that the standard of proof I in contempt cases. He held as follows:

> Civil contempt just like criminal contempt must be proved beyond reasonable doubt (*Northwest Territories Public Service Association v Comr of the Northwest Territories* (1980) 107 DLR (3d) 458 at p 479; *Crown Zellerbach Canada Ltd v Annand* (1972) 27 DLR (3d) 129; *Canadian Metal Co Ltd v Canadian*

Broadcasting Corpn (No 2) (1975) 48 DLR (3d) 641 at p 660; *Re Sheppard and Sheppard* (1976) 67 DLR (3d) 592 at p 594 and *Re Regina and Monette* (1975) 64 DLR (3d) 470 at p 473). Lord Denning MR in the case of *Re Bramblevale Ltd* [1970] Ch 128 at p 137 succinctly said:

> A contempt of court is an offence of a criminal character. A man may be sent to prison for it. It must be satisfactorily proved. To use the time-honoured phrase, it must be proved beyond reasonable doubt ...

[56] By reason of the facts analysed above, that the defendant had failed to fully comply with the 30 April order to purge the contempt that he committed on 14 and 15 January 2025 for having breached the injunction. He did not put up his apology in a way that could be read/heard as an apology. He also did not put it up on *all the same social media accounts* as those which he posted on 14 and 15 January 2025 — for which he was apologising for having breached the injunction. *It is trite that failure to comply with a court order is plain contempt of court*. The facts show that instead of affirming his apology, the defendant had in fact aggravated his acts of contempt.

[57] In summary, I rule that the plaintiff has proven the first charge (encl 88) against the defendant, as enunciated in the plaintiff's O 52 r 3(2) statement, beyond reasonable doubt. He has satisfied the requirements set out by the Federal Court in *Tan Sri Dato' (Dr) Rozali Ismail & Ors v Lim Pang Cheong*.

[58] As for the sentencing in respect of the charge in encl 88, I shall discuss it after analysing the facts pertaining to the plaintiff's application (in encl 100) for a committal order arising from the 'live stream' video posted by the defendant on 1 May 2025.

[59] As for the 'live stream' video posted by the defendant on 1 May 2025 ('the 1 May video'), my findings are as explained below.

[60] The defendant's 1 May video was played in court during the hearing. In order to fully comprehend the meaning of the words used by the defendant in his 1 May video, it is necessary to examine the transcript of the same. First, it could be noted that he was well aware of the fact that he had breached the injunction by making statements which he should not have made:

> teruja, ghairah Sir ulaslah. Dalam ulasan itu adalah terkeluar mungkin perkataan perkataan yang tak sepatutnya, jadi Ketua Polis Negara sebab dia dah dapat injuksi, dia masuk Contempt of Court

[61] The defendant's awareness of this civil suit and the prohibitory effect of the injunction were in his opening words. A longer passage from the transcript is shown below to illustrate the above point:

A *semalam adalah hina Mahkamah. Semalam bukan Sir lawan dengan Ketua Polis Negara. Semalam Sir lawan dengan Mahkamah kerana telah menghina Mahkamah*. Sebelum ini Ketua Polis Negara saman Sir 3 juta ringgit. Dalam permohonan saman itu dia masukkan sekali injuksi Sir dilarang menerbitkan kenyataan yang berunsur fitnah kepada Ketua Polis Negara. Mahkamah benarkan injuksi tersebut.
B Malangnya pada 14 haribulan Sir buat live berkenaan dengan anak Saifuddin Nasution. Anak lelaki dia yang kahwin dekat Siam tu. Kan Ketua Polis Negara buat ulasan, jadi Sir teruja, ghairah Sir ulaslah. Dalam ulasan itu adalah terkeluar mungkin perkataan perkataan yang tak sepatutnya, jadi Ketua Polis Negara sebab dia dah dapat injuksi, dia masuk Contempt of Court dan Mahkamah menerima
C Contempt of Court tersebut dan *semalam adalah hari perbicaraan yang mana bicara Wan Mohd Azri menghina Mahkamah, nampak bukan Ketua Polis Negara bukan, menghina Mahkamah. Sir lawan dengan Mahkamah jadi of course lah bila hina Mahkamah ni Sir terror macam mana pun Sir bersedialah buat apa aku nak lawan bodohlah kita, bodoh la kita nak pergi lawan dengan Mahkamah*. Sir bergegor gegor lah cakap,
D

[62] The defendant's following words show, objectively, that he knew that by expressing his apology, he could avoid the consequences of being found guilty of contempt of court:

E *Kalau Sir salah Contempt of Court, kalau Hakim bagi peluang untuk Sir minta maaf Sir minta maaf. So semalam Sir dah minta maaf tak ada perbicaraan Contempt of Court. Apa hukuman Contempt of*

[63] It is crystal clear from the defendant's reference to another case that he
F was aware of the punishment that could be meted out for committing contempt of court. He specifically pointed out that the Court of Appeal ordered one Datuk Lokman Adam to serve a sentence of imprisonment for one month for contempt of court. His words were as follows:

G *ada perbicaraan Contempt of Court. Apa hukuman Contempt of Court ni apa hukuman dia. Kau pergi google lah tengok. Contempt of Court ini boleh kena penjara contoh Lokman Adam dia pernah kena Contempt of Court, Mahkamah Tinggi dia kalah dia kena penjara. Mahkamah Rayuan dia kena penjara, sebulan dia kena penjara. Dia pergi Mahkamah Persekutuan dia dapat kelakuan baik.*

H

[64] However, in his next sentence, he insinuated that the Prime Minister had caused the Federal Court to substitute the one-month imprisonment sentence with a good behaviour bond for contempt of court in Datuk Lokman Adam's case. *This insinuation is no doubt an affront to the integrity and*
I *independence of the Federal Court*. However, for the avoidance of doubt, I am not taking this point into consideration as this court is restricted to the O 52 r 3(2) statement. The defendant's exact words were:

penjara. Dia pergi Mahkamah Persekutuan dia dapat kelakuan baik lah. Anwar Perdana Menteri waktu itu jadi kelakuan baiklah but hukuman dia sebelum itu

adalah penjara sebulan. Dan banyak dengan kes kes yang menghina Mahkamah ini hukuman dia penjara. Jadi semalam Sir dah bincang dengan Rafique duduk

[65] The following words uttered by the defendant in his 1 May 2025 video reconfirmed that he had indeed conferred in private with his learned counsel Encik Rafique and therefore understood that he was agreeing to post his apology on his same accounts with the same social media platforms on which he had on 14 and 15 January 2025 posted his defamatory statements and the edited photograph of the plaintiff — fully understanding that the purpose was to ensure that his apology could reach the same audience and be read and/or heard by them.

penjara. Jadi semalam Sir dah bincang dengan Rafique duduk dengan Rafique duduk bincang dengan dia so bincanglah bincang. So kita buat keputusan minta maaflah sebab kenapa nak lawan Mahkamah. Guys jangan jadi bodoh. Kita berundur selangkah kita minta maaf kepada Mahkamah kita berundur selangkah, tidak semestinya kita kalah. *Sebaliknya kalau tanya Sir semalam Sir menang*. Sir ini merapu la minta maaf lepas tu menang. *Eh Sir menanglah sebab apa Sir menang. Sebab selama ini dia orang berusaha nak sumbat muka ni dalam Penjara Sg Buloh, selama ini tapi sampai sekarang mereka gagal nak sumbat ni ke dalam Penjara Sg Buloh. Jadi sekarang ini kau orang faham kenapa*

[66] If the defendant had felt that he must explain to the public about his apology, he could have just stated that he had unwittingly breached the injunction in January this year and had therefore apologised to the court and to the plaintiff for his trespass. Instead, in his 1 May video, the defendant used words and a tone that made it abundantly clear that his decision to apologise was not out of remorse but was his tactical manoeuvre executed after discussion with his counsel.

[67] By announcing in his 1 May video — which was posted just a day after his apologising in court — that he had won in court ('Sir menang'), he was announcing to his 'followers' that he had been successful in deceiving the court into accepting his insincere apology. In other words, his apology was a trick to avoid punishment for contempt of court.

[68] As mentioned above, the defendant's 1 May video was played in court during the hearing for committal orders, and he could be loudly heard to have boasted as follows:

nampak Sir minta maaf semalam, kenapa Sir minta maaf, Sir tak pernah minta maaf Sir tak pernah. Anwar Ibrahim saman Sir tak minta maaf. Lim Guan Eng saman Sir tak minta maaf. Fahmi Fadzil saman Sir tak minta maaf. Menteri Agama saman Sir tak minta maaf. Siapa lagi, semua Sir tak pernah minta maaf pun dalam kes saman. *Waima Ketua Polis Negara yang saman Sir pun Sir tak minta maaf dengan dia, lawan lah dekat Mahkamah. Tapi kenapa*

[69] The defendant's unequivocal words were: *'Sir tak pernah mintak maaf Sir tak pernah. Anwar Ibrahim saman Sir tak minta maaf. Lim Guan Eng saman Sir tak minta maaf. Fahmi Fadzil saman Sir tak minta maaf. Menteri Agama saman Sir tak minta maaf. Siapa lagi, semua Sir tak pernah minta maaf pun dalam kes saman'.*

[70] Objectively, the defendant's choice of words in his 1 May video showed total lack of remorse. In fact, it highlighted the defendant's arrogance that he had managed to avoid being punished with imprisonment for his past conduct in earlier court cases involving several high-profile individuals whom he named aloud, inter alia, the current Prime Minister.

[71] Thus, the events on 30 April and 1 May 2025 unfolded to show that the *defendant created his 1 May video for the purpose of diminishing and/or negating his apology.* Further, he had in fact used his apology in court on 30 April 2025 to create contents for his 1 May video.

[72] The present case is not the first case wherein a party was cited for contempt of court for attempting to negate or repudiate an apology that was recorded in court. In *Tommy Thomas v Peguam Negara, Malaysia and other appeals* [2001] MLJU 767, Mr Thomas issued a press statement on the evening of the day on which he had apologised in court, stating words, the effect of which was to repudiate his apology. The Court of Appeal found that his repudiation of the open court statement (which contained his apology to the opposing party) made a mockery of the abject apology that had been tendered in court earlier on the same day. The court ruled that it put the integrity of the open court statement in jeopardy, and was a serious contempt of court. The exact words of Gopal Sri Ram JCA (as he then was) are as follows:

> 'The ink on the paper had hardly dried when the appellant acted. He issued a press statement on the very evening of the day on which the open court statement had been read. It was carried in the newspapers the very next day, along with the story about the settlement. There is no dispute about what he said. The relevant part of the report reads as follows:
>
> > Later in the evening, in a statement, Thomas said: 'The settlement of the defamation actions was initiated, brokered and insisted upon entirely by the insurers. The actions were settled despite my express objections'.
>
> It does not take much intellectual exercise to realise the effect of this statement. It was a material departure from the open court statement that had been read out on the appellant's behalf only a few hours earlier. It meant that there had been no sincere apology as represented in the open court statement. It meant that the court had been misled about the apology. Either the appellant had misled the court or his counsel had. It was a very serious infraction of the law.'
>
> To return to the present instance, the appellant's conduct in repudiating the open

court statement came on the same day as the statement was read out in court. His repudiation of the open court statement certainly made a mockery of the abject apology that had been tendered in court earlier on the same day. It put the integrity of the open court statement in jeopardy. It was in my view a serious contempt of court.

[73] In his judgment (the majority), Ahmad Fairuz JCA (as he then was) in *Tommy Thomas v Peguam Negara, Malaysia* opined that the power of a superior court to imprison a contemnor are defined or restricted by the Rules of Court. He held that it is not limited to contempt in the face of the court but has long extended not only to disobedience to orders of the court and breaches of undertakings to the court but also to interference with the administration of justice. He held that the procedural irregularity discussed in Sri Ram JCA's judgment — about the contempt proceedings having being initiated by a show cause notice instead of by the opposing party or the Attorney-General — should not prevent the court from finding Mr Thomas guilty of contempt of court. Denis Ong JCA (as he then was) concurred with Ahmad Fairuz JCA — rendering the judgment of Sri Ram JCA the dissenting judgment on the procedural point.

[74] Denis Ong JCA (as he then was) in *Tommy Thomas v Peguam Negara, Malaysia* decided to maintain the finding of guilty of contempt of court even though Mr Thomas had retracted his repudiation and apologised repeatedly to the court. I shall cite a pertinent part of Denis Ong JCA's judgment after referring to a Federal Court judgment.

[75] The subject matter of *Peguam Negara Malaysia v Mkini Dotcom Sdn Bhd & Anor* [2021] 2 MLJ 652; [2021] 3 CLJ 603 was contempt proceedings against an online news portal. There, the Federal Court highlighted the wide scope of art 126 of the Federal Constitution and s 13 of the Courts of Judicature Act 1964, which empower the Federal Court, the Court of Appeal or a High Court to punish any contempt of itself. It was held as follows:

Power to punish for contempt flows from raison d'etre' for a court of law to uphold the administration of justice. All courts are empowered to punish for contempt committed when the courts are in session. The superior courts are empowered to punish any contempt of itself as provided in art 126 of the Federal Constitution read with s 13 of the Courts of Judicature Act 1964. Article 126 of the Federal Constitution provides specifically for the power to punish for contempt.

[76] The Federal Court *Peguam Negara Malaysia v Mkini Dotcom Sdn Bhd & Anor* went on to point out that contempt of court may take many forms. A passage from *Attorney General v Times Newspaper Ltd* [1974] AC 273 was cited with approval:

... *'Contempt of court' is a generic term* descriptive of conduct in relation to particular

> proceedings in a court of law which tends to undermine that system or to inhibit citizens from availing themselves of it for the settlement of their disputes. *Contempt of court may thus take many forms.*
>
> ...
>
> [17] It can never be said enough that the purpose of the law on contempt is not to protect the dignity of individual judges but to protect the administration of justice.

[77] Since contempt of court is generally defined as conduct which tends to undermine the judicial system and may thus take many forms, each case of contempt ought to be examined on its own facts. As pointed out above, there is in fact a precedent of the Court of Appeal in *Tommy Thomas v Peguam Negara, Malaysia* upholding a finding of contempt of court based on the issuance of a press statement which had the effect of repudiating an apology recorded in court. The following parts of Denis Ong JCA's judgment contains his finding that Mr Thomas's attempt to repudiate his apology had undermined the dignity and integrity of the court:

> It is a fact that the appellant retracted his press statement which was published the next day. It is also a fact that he pleaded guilty to the charge in the sense he did not oppose the notice to show cause and chose only to mitigate on sentence. Lastly, he did in fact repeatedly apologise to the High Court and pleaded for mercy.
>
> On the other hand, *this is*, as I said before, *a case of contempt committed outside the court via the media which had undermined the dignity and integrity of the court.*

[78] From the above passage from Denis Ong JCA's judgment, it could be gleaned that Mr Thomas had retracted his press statement which was published the next day, pleaded guilty to the charge in the sense he did not oppose the notice to show cause and chose only to mitigate on sentence, and lastly, he repeatedly apologise to the High Court and pleaded for mercy. Yet the Court of Appeal had maintained the High Court's finding of guilty of contempt of court.

[79] Now, it is common knowledge in this day and age that social media platforms pay those who post contents that attract a high number of viewers. In other words, there is monetary gain from posting sensational statements by using the name of high-profile individuals such as the Prime Minister and the Inspector-General of Police. Even though there is no direct evidence as to whether the defendant was paid for his posts on social media platforms, his learned counsel replied (to this court's question about the defendant's occupation) that the defendant is a blogger and 'pengkritik kerajaan'. If that is the defendant's occupation, it is reasonable to infer that the defendant has been remunerated for blogging and criticising the Government.

[80] At this juncture, it is apt to cite judgment of the Federal Court in

Peguam Negara Malaysia v Mkini Dotcom Sdn Bhd wherein Rohana bt Yusuf PCA (as she then was) issued a reminder to the general public that whilst freedom of opinion and expression is guaranteed by our Federal Constitution, it must be done within the bounds permissible by the law.

> [142] Nevertheless, this unfortunate incident should serve as a reminder to the general public that in expressing one's view especially by making unwarranted and demeaning attacks on the judiciary should not be made at one's whims and fancies as which can tantamount to scandalising the court. Whilst freedom of opinion and expression is guaranteed and protected by our Federal Constitution, it must be done within the bounds permissible by the law.

[81] Even though freedom of speech is a constitutional right, it is subject to the boundaries of the laws of defamation and contempt of court. Article 10(1)(a) of the Federal Constitution is, with respect, not a licence to slander and to profit from slandering, or to twist apologies tendered in court to create contents for sensational online videos. In his 1 May video, the defendant refers to himself as 'Sir'. In his social media accounts, he 'knighted' himself 'Sir Azri'. The facts show that the defendant is someone well familiar with the workings of social media platforms to exalt himself. Thus, it is safe to conclude that the defendant is no simpleton, not a man who did not know how to post his apology online properly. Posting on social media platforms is, in fact, is bread and butter.

[82] I am mindful that the doctrine of stare decisis requires me, who sit at the High Court, to respect and follow the judgments of the Court of Appeal and Federal Court. In light of the cited judgments in *Tommy Thomas v Peguam Negara, Malaysia* and *Peguam Negara Malaysia v Mkini Dotcom Sdn Bhd & Anor* being applied to the finding of facts that this court has made — as analysed and explained above — I am constrained to find that the plaintiff has also proven the second charge (encl 100) against the defendant, as enunciated in the plaintiff's O 52 r 3(2) statement, beyond reasonable doubt. The requirements set out by the Federal Court in *Tan Sri Dato' (Dr) Rozali Ismail & Ors v Lim Pang Cheong* are also satisfied in respect of the second charge of contempt of court.

[83] In deciding whether to impose a custodial sentence after making a finding of contempt of court, the Federal Court in *PCP Construction Sdn Bhd v Leap Modulation Sdn Bhd (Asian International Arbitration Centre, intervener)* [2019] 4 MLJ 747 explained that the sentence imposed must reflect the seriousness of the offence committed for scandalising the court. In that case, imprisonment of 30 days and a fine of RM40,000 in default, a further 30 days, was ordered. The Federal Court issued the following reminder, pointing out that the contemnor had refused to tender an unreserved apology:

> [121] In our view this case should serve as a reminder that whilst the members of the

public are entitled to express their opinion rationally and engage in discussion about the decision of a court, this has to be done within the limits permitted by law.

...

[127] His contemptuous statements against the Federal Court are very serious and tarnish the good name of the Judiciary as a whole. He has undermined the public confidence in the Judiciary, ridiculed, scandalised and offended the dignity, integrity and impartiality of the court.

[128] We have also considered the Bar's submissions not to impose a custodial sentence. However, the gravity of the offence committed by Arun Kasi coupled with his refusal to tender an unreserved apology justifies this court taking a serious view of the matter.

[84] In *Hoslan bin Hussin v Majlis Agama Islam Wilayah Persekutuan* [2012] 4 MLJ 137, the contemnor had thrown a pair of shoes towards the bench after decision to dismiss his application for leave to appeal was pronounced by the Federal Court. He was convicted for contempt in the face of the court and a sentence of one year imprisonment was imposed. The Federal Court had considered that the contemptuous act committed by the contemnor was a serious affront to the administration of justice justifying a stiff custodial sentence. The Federal Court held as follows:

[17] ... It must be stated here that the act of throwing objects like shoes has always been viewed upon as being obnoxious, demeaning and degrading when hurled at a human being and worst still thrown before a panel of judges of the apex court of the nation. Even with an apology tendered by the contemnor we do not think that it had lessened the gravity of the offence. ...

[18] Finally we would emphasise here that in taking the contempt proceedings and meting out the sentence of one year imprisonment on the contemnor, we are not doing it for personal interest, but to protect and preserve the power, respect and dignity of this honourable apex court.

[85] I have read through a series of reported cases, including *Bursa Malaysia Securities Bhd v Tengku Dato' Kamal Ibni Sultan Sir Abu Bakar & Ors* [2017] 7 MLJ 141, *Fortune Pacific Engineering Co Ltd v Gajatakraw Industries Sdn Bhd* [2009] MLJU 1975; [2010] 5 CLJ 590, *IJM Corporation Bhd v Harta Kumpulan Sdn Bhd (Part 2)* [2007] MLJU 822; [2008] 8 CLJ 308, *Bumitech Marketing Sdn Bhd v Suasa Efektif (M) Sdn Bhd* [2012] MLJU 1208, *HSBC Bank Malaysia Bhd (formerly known as Hongkong Bank (M) Bhd) v Tirathrai Sdn Bhd (formerly known as T Jethanand Sdn Bhd)* [2009] 7 MLJ 168 to seek guidance on the appropriate sentence in the present case.

[86] First, it is necessary to profile the contemnor in order to arrive at a fair and just sentence befitting his acts of contempt. The defendant is no unruly teenager who was acting impulsively or emotionally. He is a blogger cum

vlogger cum live streamer who makes the act of criticising the government his fulltime occupation to earn money. From his own admission in 1 May video of having been sued in numerous cases, he must surely be aware that whilst it is not an offence *per se* to criticise, there are laws in Malaysia against defamation, sedition and contempt of court.

[87] In *Tommy Thomas v Peguam Negara, Malaysia*, the contemnor was quick to retract his impugned statement and repeatedly apologised and sought the mercy of the court. In the present case, the defendant had deceived this court and the plaintiff into believing that he would apologise sincerely, comply with the terms of the 30 April order and close the chapter. Instead, he had the audacity to attempt to repudiate his apology and made a mockery of it. Further, he attempted to negate the news of his apologising in court (which was published in the newspapers on 1 May 2025) by performing his 'live streaming' which created his 1 May video — which he posted on his social media accounts. Thus, his learned counsel's submissions that the news were widely reported carries no mitigating effect.

[88] In the present case, the defendant had showed no remorse whatsoever. In fact, he instructed his learned counsel to attempt to deny his failure to comply with the 30 April order. His learned counsel was also instructed to argue that the 1 May video was intended to clarify. There was no remorse expressed — unlike in those cases where the contemnor showed remorse and was let off with a fine. I bear in mind that the Federal Court in *PCP Construction Sdn Bhd v Leap Modulation Sdn Bhd (Asian International Arbitration Centre, intervener)* had pointed out that a failure to tender an unreserved apology is an aggravating factor.

[89] In the circumstances, should the defendant be let off with just a fine? After considering all the facts, including the fact that the defendant is a person who profits himself from online social media platforms and knew exactly what he needed to do to fulfill his undertaking to publish his apology and had yet failed to do so (the first charge) and had instead made a mockery of it, followed by his 1 May video (the second charge), this court finds it necessary to impose a short term of imprisonment. A fine would have been just 'a flick on the knuckles' for the defendant, and would have no deterrent effect on someone like him.

[90] In the circumstances, I decided that this court ought to impose a term of imprisonment of fifteen days for each charge against him. Since the second charge of contempt for creating and publishing 1 May video was a new and separate act of contempt, the two sentences of 15 days should run consecutively, making it a total number of 30 days. Costs of RM15,000 is to be paid by the defendant to the plaintiff who had to file two applications to bring

A the defendant to face this court for contempt of court. Lastly, a conditional stay of execution was granted as the defendant's learned counsel applied orally for a stay pending appeal to the Court of Appeal.

B *Defendant sentenced to 30 days in jail, ordered to pay RM15,000 in costs to the plaintiff and granted a conditional stay of execution of sentence pending the defendant's appeal against to the Court of Appeal.*

Reported by Ashok Kumar

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